

Darrell Warren (“Warren”) was convicted in Hamilton Superior Court of Class A misdemeanor resisting law enforcement and sentenced to serve 365 days in the Hamilton County Jail. Warren appeals and argues that the evidence is insufficient to establish that he forcibly resisted. Concluding that the evidence is sufficient, we affirm.

Facts and Procedural History

On April 29, 2006, Noblesville police officers were investigating an alleged battery. The victim told the officers that Warren had struck him and pinned him to the ground. After observing the victim’s injuries, the officers began to search for Warren. Warren was located in an alley near his residence and placed under arrest by Officer Jeremy Stanley (“Officer Stanley”). As Officer Stanley placed Warren in hand restraints, Warren began to argue and yell at the officer. Officer Stanley also observed that Warren was possibly under the influence of alcohol.

Upon arriving at the Hamilton County Jail, Officer Stanley removed Warren from his vehicle and asked Warren to walk towards door three of the south entrance to the jail. Warren took a step forward but then turned around and stepped back into the officer making contact with the officer’s body. Tr. p. 31. Officer Stanley told Warren to walk towards door three for a second time and Warren began yelling at the officer. He also stepped back into Officer Stanley. The officer pushed Warren up against the vehicle parked next to Officer Stanley’s to gain distance and to try to gain control of Warren. Id. at 31-32. Warren then “pushed back off the vehicle towards” Officer Stanley. Id. at 33. The officer stepped away from Warren and used Warren’s momentum to take “him

straight to the ground.” Id. Warren fell to the ground face first, and as a result, suffered lacerations to his forehead and nose. Id. at 33-34.

On May 1, 2006, Warren was charged with Class A misdemeanor battery, Class A misdemeanor resisting law enforcement, and Class B misdemeanor public intoxication. A bench trial was held on July 27, 2006. The trial court found Warren not guilty of battery and public intoxication, but guilty of resisting law enforcement. Warren was sentenced to serve 365 days in the Hamilton County Jail with credit for time served. Warren now appeals.

Standard of Review

When we review a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

Discussion and Decision

To convict a person of Class A misdemeanor resisting law enforcement, the State must prove that the defendant knowingly or intentionally “forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer’s duties[.]” Ind. Code § 35-44-3-3

(a)(1) (2004 & Supp. 2006). Warren contends that the evidence was insufficient to establish that he “forcibly” resisted, obstructed or interfered.¹

“One ‘forcibly resists’ law enforcement when strong, powerful, violent means are used to evade a law enforcement official’s rightful exercise of his or her duties.” Spangler v. State, 607 N.E.2d 720, 723 (Ind. 1993). In Spangler, the evidence did not establish that the defendant acted with force because he did not direct any strength, power, or violence toward the police officer or make any movement or threatening gesture in the direction of the officer. Id. at 724-25.

However, in Johnson v. State, 833 N.E.2d 516, 518-19 (Ind. Ct. App. 2005), our court determined that the defendant did forcibly resist when he turned and pushed away from the officers with his shoulders as they attempted to search him and when he stiffened up as the officers attempted to place him inside a transport vehicle. Similarly, in Guthrie v. State, 720 N.E.2d 7, 9 (Ind. Ct. App. 1999), trans. denied, the evidence was sufficient to support Guthrie’s resisting conviction where the officers had to physically remove him from a transport vehicle, lift him to his feet, and carry him after he leaned back and stiffened his legs. Our court noted, “‘Guthrie did more than passively resist’ Instead, he applied some ‘force’ such that the officers had to exert force to counteract Guthrie’s acts in resistance.” Johnson, 833 N.E.2d at 518 (quoting Guthrie, 720 N.E.2d at 9)).

¹ Warren was charged as follows: “[O]n or about April 29, 2006 Darrell L. Warren Sr. did knowingly and forcibly resist, obstruct or interfere with a law enforcement officer, to-wit: Jeremy Stanley with the Noblesville Police Department; while said officer was lawfully engaged in his duties as a law enforcement officer.” Appellant’s App. p. 3.

In this case, Warren was told to walk towards door three of the jail and instead turned and stepped into Officer Stanley striking Stanley with his chest. The officer then pinned Warren up against a vehicle and Warren “pushed back off the vehicle towards” the officer. From these facts, it is reasonable to infer that Warren acted forcibly towards Officer Stanley, requiring the officer to exert force to counteract Warren’s acts in resistance. Consequently, we conclude that the evidence is sufficient to support Warren’s conviction for Class A misdemeanor resisting law enforcement.

Affirmed.

DARDEN, J., and KIRSCH, J., concur.